

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 674 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL MADHAVLAL KESHAVLAL

Versus

PATEL MAFATLAL MAGANLAL BY HEIRS

Appearance:

MR PB MAJMUDAR for Petitioner

MR PK JANI for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 02/02/98

ORAL JUDGEMENT

This revision application under Section 115 of C.P.C. has been filed against the order dated 8.3.1990 passed by the Civil Judge (J.D.), Visnagar, below Exh. 162 in Regular Darkhast No. 69 of 1969 whereby the learned judge directed the judgement debtor to pay Rs. 11,217.56 towards the expenses incurred by the decree holder. The learned counsel for the petitioner contends that the order awarding heavy cost is harsh in the facts

and circumstances of the case. On the other hand, Mr. Jani learned counsel for the decree-holder submits that the court has only awarded the actual expenses incurred by the decree holder. He further submits that the order awarding cost is a discretionary order and it cannot be said to be without jurisdiction and as such does not call for any interference by this court under Section 115 of the C.P.C.

It appears that this court by order dated 27.6.1990 while issuing rule granted interim relief on condition that the petitioner judgement debtor deposits a sum of Rs. 5600/- before the Executing Court within a period of 15 days. I am told that the said amount has been deposited. Considering the facts and circumstances of the case, in my view, the ends of justice would meet if the amount of cost of Rs. 11,217.56 is reduced to Rs. 5600/-. In view of this, the aforesaid revision is partly allowed and the order of the Civil Judge (J.D.), Visnagar dated 8.3.1990 is modified by substituting the cost amount in place of Rs. 11,217.56 as Rs. 5600/-. The amount deposited shall be paid to the decree holder respondent Nos. 1/1 to 1/5. The decree holder will also be entitled to interest on the said amount. Rule is made absolute to the aforesaid extent.

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